

# **EXHIBIT 1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:19-cv-1920-RBJ

WILDEARTH GUARDIANS, *et al.*,

Petitioners,

v.

DAVID L. BERNHARDT, *et al.*,

Federal Respondents,

and

MOUNTAIN COAL COMPANY, LLC,

Intervenor.

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**FEDERAL DEFENDANTS' OFFER OF JUDGMENT AND PLAINTIFFS' NOTICE OF  
ACCEPTANCE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 68**

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1. On March 27, 2020, Conservation Groups filed their Motion for Litigation Costs and Reasonable Attorneys' Fees, ECF No. 58. Plaintiffs concurrently filed their Unopposed Motion to Stay Briefing on Plaintiffs' Motion for Litigation Costs and Reasonable Attorneys' Fees, ECF No. 57, which the Court granted on March 30, 2020. ECF No. 59. The Parties participated in good faith negotiations from March 30, 2020 to July 31, 2020, but ultimately were unable to resolve their disputes.

2. Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Federal Defendants, by and through their undersigned counsel, hereby allow judgment to be entered against them in the amount of \$50,950.00 as full compensation for all attorneys' fees and costs sought in the

Petition and incurred in this case.

3. This offer of judgment is made for the purposes of Fed. R. Civ. P. 68 and is not to be construed as an admission by Federal Defendants. Unless accepted, this offer of judgment is deemed to be inadmissible as evidence except in a proceeding to determine costs.

4. This offer of judgment is made pursuant to the provisions of Fed. R. Civ. P. 68 and will be deemed withdrawn unless Plaintiffs serve a written notice of acceptance of the offer within fourteen days of the date that it is served.

5. By accepting this offer of judgment, as evidenced by signature of Plaintiffs' counsel below, Plaintiffs thereby relinquish all claims under EAJA and all other authorities for any and all attorneys' fees and costs incurred by Plaintiffs during all phases of this action.

DATED this 31th day of August, 2020.

JEAN E. WILLIAMS  
Deputy Assistant Attorney General  
Environment & Natural Resources Division

s/ Leilani E. Doktor  
LEILANI E. DOKTOR  
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U.S. Department of Justice  
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*Attorney for Defendants*

#### **PLAINTIFFS' NOTICE OF ACCEPTANCE**

Pursuant to Rule 68(a) of the Federal Rules of Civil Procedure, Plaintiff Conservation Groups, through their undersigned counsel, hereby timely accept and provide notice that they have timely accepted Federal Defendants' Offer of Judgment in this matter.

DATED this 8<sup>th</sup> day of September,

s/ Daniel L. Timmons

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s/ Samantha Ruscavage-Barz

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*Attorneys for Petitioner WildEarth Guardians*

s/ Nathaniel Shoaff

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*Attorney for Petitioners High Country Conservation Advocates, Center for Biological Diversity,  
Sierra Club, and Wilderness Workshop*

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing OFFER OF JUDGMENT AND PLAINTIFFS' NOTICE OF ACCEPTANCE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 68 was served on all counsel of record through the Court's ECF system on this 18<sup>th</sup> day of September, 2020.

/s/ Leilani Doktor

Leilani Doktor